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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,868	08/09/2004	Srikanth Sampath	SYB/0097.02	4867

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JOHN A. SMART
708 BLOSSOM HILL RD., #201
LOS GATOS, CA 95032-3503

EXAMINER
MORRISON, JAY A

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/710,868	SAMPATH ET AL.
	Examiner	**Art Unit**	
	Jay A. Morrison	2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 July 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-21 and 23-40* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,9-21 and 23-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/6/07

has been entered.

Remarks

2.   Claims 1-7,8-21,23-40 are pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

4.   Claims 1-7,8-21,23-40 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Lomet (Patent Number 6,490,594) in view of Lahey et al. ('Lahey'

hereinafter) (Patent Number 7,028,303) and further in view of Klotz et al. ('Klotz'

hereinafter) (Publication Number 2004/0015762) and further in view of Schmidt et al.

('Schmidt' hereinafter) ('Alleviating Priority Inversion and Non-determinism in Real-time

CORBA ORB Core Architectures", 4th IEEE Real-time Technology and Applications

Symposium, Denver, CO, June 3-5, 1998) and further in view of Klemm et al. ('Klemm'

hereinafter) (Patent Number 6,457,142).

As per claim 1, Lomet teaches

In a database system, a … method for performing recovery operations by … , the

method comprising: (see abstract and background)

to perform recovery operations (recovery, column 10, lines 51-60)

Lomet does not explicitly indicate "(a) spawning an initial recovery thread … the

initial recovery thread … (c) spawning a subsequent recovery thread … with the

subsequent recovery thread … as long as I/O performance does not degrade beyond a

preselected percentage, to repeat steps (c) and (d) for spawning a desired number of

additional recovery threads" nor "when I/0 performance measured for a just-spawned recovery thread degrades beyond the preselected percentage".

However, Lahey discloses "(a) spawning an initial recovery thread ... the initial recovery thread ... (c) spawning a subsequent recovery thread ... with the subsequent recovery thread ... as long as I/O performance does not degrade beyond a preselected percentage, to repeat steps (c) and (d) for spawning a desired number of additional recovery threads" (spawn threads, column 6, lines 18-34) and "when I/0 performance measured for a just-spawned recovery thread degrades beyond the preselected percentage" (spawned threads degrade system performance, column 6, lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet and Lahey because using the steps of "(a) spawning an initial recovery thread ... the initial recovery thread ... (c) spawning a subsequent recovery thread ... with the subsequent recovery thread ... as long as I/O performance does not degrade beyond a preselected percentage, to repeat steps (c) and (d) for spawning a desired number of additional recovery threads" and "when I/0 performance measured for a just-spawned recovery thread degrades beyond the preselected percentage" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

Lomet does not explicitly indicate "(b) measuring I/O (input/output) performance .. (d) measuring I/O performance".

However, Klotz discloses "(b) measuring I/O (input/output) performance .. (d) measuring I/O performance" (performance statistics, paragraph [0047]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of "(b) measuring I/O (input/output) performance .. (d) measuring I/O performance" would have given those skilled in the art the tools to improve the invention by determine when heavy data loads are placing I/O stress on the system. This gives the user the advantage of being able to take measures to avoid stresses on the system.

Neither Lomet, Lahey, nor Klotz disclose "self-tuning ... dynamically adapting how many recovery threads are spawned during recovery", "self-tuning how many threads are spawned by continuing".

However, Schmidt discloses "self-tuning ... dynamically adapting how many recovery threads are spawned during recovery", "self-tuning how many threads are spawned by continuing" (dynamically spawn threads, Section 2.1.2, "MiniCOOL" bullet-point).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, Klotz, and Schmidt because using the steps of "self-tuning ... dynamically adapting how many recovery threads are spawned during recovery", "self-tuning how many threads are spawned by continuing" would have given those skilled in the art the tools to improve the invention by being able to support applications with stringent real-time requirements. This gives the user the advantage of being able to have better response time.

Neither <u>Lomet</u>, <u>Lahey</u>, <u>Klotz</u>, nor <u>Schmidt</u> explicitly indicate "putting the just-spawned recovery thread to sleep".

However, <u>Klemm</u> discloses "putting the just-spawned recovery thread to sleep" (suspend newly spawned thread, column 4, lines 20-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, <u>Klotz</u>, <u>Schmidt</u>, and <u>Klemm</u> because using the steps of "putting the just-spawned recovery thread to sleep" would have given those skilled in the art the tools to improve the invention by allowing the workflow to be monitored and tuned. This gives the user the advantage of being able to have better response time.

As per claim 2,

<u>Lomet</u> does not explicitly indicate "I/O performance is measured over a given period of time."

However, <u>Klotz</u> discloses "I/O performance is measured over a given period of time" (paragraph [0047]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, and <u>Klotz</u> because using the steps of "I/O performance is measured over a given period of time" would have given those skilled in the art the tools to improve the invention by determine when heavy data loads are placing I/O stress on the system. This gives the user the advantage of being able to take measures to avoid stresses on the system.

As per claim 3,

Lomet does not explicitly indicate "the given period of time is about 1 second."

However, Klotz discloses "the given period of time is about 1 second" (paragraph [0047]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of "the given period of time is about 1 second" would have given those skilled in the art the tools to improve the invention by determine when heavy data loads are placing I/O stress on the system. This gives the user the advantage of being able to take measures to avoid stresses on the system.

As per claim 4,

Lomet does not explicitly indicate "steps (c) and (d) are repeated for spawning additional recovery threads as long as I/O performance degrades by no more than about 15 percent".

However, Lahey discloses "steps (c) and (d) are repeated for spawning additional recovery threads as long as I/O performance degrades by no more than about 15 percent" (column 6, lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of "steps (c) and (d) are repeated for spawning additional recovery threads as long as I/O

performance degrades by no more than about 15 percent" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

As per claim 5,

Lomet does not explicitly indicate "steps (c) and (d) are repeated such that only a preconfigured maximum number of recovery threads may be generated."

However, Lahey discloses "steps (c) and (d) are repeated such that only a preconfigured maximum number of recovery threads may be generated" (column 6, lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of "steps (c) and (d) are repeated such that only a preconfigured maximum number of recovery threads may be generated" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

As per claim 6, Lomet teaches

a count of databases that can be opened (column 10, lines 25-38).

Lomet does not explicitly indicate "the maximum number of recovery threads is limited to not exceed".

However, <u>Lahey</u> discloses "the maximum number of recovery threads is limited to not exceed" (column 6, lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, and <u>Klotz</u> because using the steps of "the maximum number of recovery threads is limited to not exceed" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

As per claim 7, <u>Lomet</u> teaches

one less than a count of database engines online (column 10, lines 25-38).

<u>Lomet</u> does not explicitly indicate "the maximum number of recovery threads is limited to not exceed".

However, <u>Lahey</u> discloses "the maximum number of recovery threads is limited to not exceed" (column 6, lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, and <u>Klotz</u> because using the steps of "the maximum number of recovery threads is limited to not exceed" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

As per claim 8,

Lomet does not explicitly indicate "step (e) further comprises: when I/O performance measured for a just-spawned recovery thread degrades beyond the preselected percentage, putting the just-spawned recovery thread to sleep".

However, Lahey discloses "step (e) further comprises: when I/O performance measured for a just-spawned recovery thread degrades beyond the preselected percentage, putting the just-spawned recovery thread to sleep" (column 6, lines 1-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of "step (e) further comprises: when I/O performance measured for a just-spawned recovery thread degrades beyond the preselected percentage, putting the just-spawned recovery thread to sleep" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

As per claim 9,

Lomet does not explicitly indicate "after another recovery thread finishes, awaking the thread that has been put to sleep".

However, Lahey discloses "after another recovery thread finishes, awaking the thread that has been put to sleep" (column 6, lines 8-18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of

"after another recovery thread finishes, awaking the thread that has been put to sleep" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

As per claim 10, <u>Lomet</u> teaches

steps (c) and (d) are repeated up to a configured maximum number of databases that can be recovered concurrently (column 10, lines 25-38).

As per claim 11, <u>Lomet</u> teaches

recovers a single database at a time (column 16, lines 23-41).

<u>Lomet</u> does not explicitly indicate "each recovery thread itself".

However, <u>Lahey</u> discloses "each recovery thread itself" (column 6, lines 35-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, and <u>Klotz</u> because using the steps of "each recovery thread itself" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

As per claim 12,

<u>Lomet</u> does not explicitly indicate "a user of the system is able to specify a particular number of concurrent recovery threads".

However, <u>Lahey</u> discloses "a user of the system is able to specify a particular number of concurrent recovery threads" (column 5, lines 4-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, and <u>Klotz</u> because using the steps of "a user of the system is able to specify a particular number of concurrent recovery threads" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

and wherein the system generates an advisory if the particular number of concurrent recovery threads specified can be changed to achieve better I/O performance. ('if' denotes an optionally recited limitation and optionally recited limitations are not guaranteed to take place and are therefore not required to be taught, see MPEP § 2106 Section II(C))

As per claim 13, <u>Lomet</u> teaches

A computer-readable medium having processor-executable instructions for performing the method of claim 1. (column 9, lines 32-43)

As per claim 14, <u>Lomet</u> teaches

downloading a set of processor-executable instructions for performing the method of claim 1. (column 9, lines 32-43)

As per claim 15, Lomet teaches

A database system performing recovery operations by ... , the system

comprising: (see abstract and background)

a database system having at least one database that may require recovery;

(database, column 12, lines 18-38)

Lomet does not explicitly indicate "an initial recovery thread that is spawned to

perform recovery operations ... and a plurality of additional recovery threads that are

spawned to perform recovery operations ... with the initial recovery thread ... with each

additional recovery thread that is spawned, and wherein the system ceases spawning

additional recovery threads" nor "when I/O performance for the just-spawned recovery

thread degrades beyond a desired amount".

However, Lahey discloses "an initial recovery thread that is spawned to perform

recovery operations ... and a plurality of additional recovery threads that are spawned

to perform recovery operations ... with the initial recovery thread ... with each additional

recovery thread that is spawned, and wherein the system ceases spawning additional

recovery threads" (spawn threads, column 6, lines 18-34) and "when I/O performance

for the just-spawned recovery thread degrades beyond a desired amount" (spawned

threads degrade system performance, column 6, lines 18-34).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine Lomet and Lahey because using the steps of "an initial

recovery thread that is spawned to perform recovery operations ... and a plurality of

additional recovery threads that are spawned to perform recovery operations ... with the

initial recovery thread ... with each additional recovery thread that is spawned, and wherein the system ceases spawning additional recovery threads" and "when I/O performance for the just-spawned recovery thread degrades beyond a desired amount" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

Lomet does not explicitly indicate "wherein the system measures I/O (input/output) performance ... wherein the system ... based on I/O (input/output) performance ... when I/O performance degrades beyond a desired amount."

However, Klotz discloses "wherein the system measures I/O (input/output) performance ... wherein the system ... based on I/O (input/output) performance ... when I/O performance degrades beyond a desired amount" (performance statistics, paragraph [0047]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of "wherein the system measures I/O (input/output) performance ... wherein the system ... based on I/O (input/output) performance ... when I/O performance degrades beyond a desired amount" would have given those skilled in the art the tools to improve the invention by determine when heavy data loads are placing I/O stress on the system. This gives the user the advantage of being able to take measures to avoid stresses on the system.

Neither <u>Lomet</u>, <u>Lahey</u>, nor <u>Klotz</u> disclose "dynamically adapting how many recovery threads are spawned during recovery", "dynamically adjusts how many recovery threads are spawned".

However, <u>Schmidt</u> discloses "dynamically adapting how many recovery threads are spawned during recovery", "dynamically adjusts how many recovery threads are spawned" (dynamically spawn threads, Section 2.1.2, "MiniCOOL" bullet-point).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, <u>Klotz</u>, and <u>Schmidt</u> because using the steps of "dynamically adapting how many recovery threads are spawned during recovery", "dynamically adjusts how many recovery threads are spawned" would have given those skilled in the art the tools to improve the invention by being able to support applications with stringent real-time requirements. This gives the user the advantage of being able to have better response time.

Neither <u>Lomet</u>, <u>Lahey</u>, <u>Klotz</u>, nor <u>Schmidt</u> explicitly indicate "puts a just-spawned recovery thread to sleep".

However, <u>Klemm</u> discloses "puts a just-spawned recovery thread to sleep" (suspend newly spawned thread, column 4, lines 20-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine <u>Lomet</u>, <u>Lahey</u>, <u>Klotz</u>, <u>Schmidt</u>, and <u>Klemm</u> because using the steps of "puts a just-spawned recovery thread to sleep" would have given those skilled in the art the tools to improve the invention by allowing the workflow to be

monitored and tuned. This gives the user the advantage of being able to have better

response time.

As per claims 16-26,

These claims are rejected on grounds corresponding to the arguments given

above for rejected claims 2-12 and are similarly rejected.

As per claim 27, <u>Lomet</u> teaches

In a database system, an ... for performing database recovery in a manner that

... based on current performance, the method comprising: (see abstract and

background)

<u>Lomet</u> does not explicitly indicate "spawning a thread to perform database

recovery ... associated with that thread; and during recovery, ... by performing substeps

of: attempting to spawn additional threads to perform database recovery and ...

associated with each additional thread spawned and if the performance measured ...

degrades beyond a desired amount."

However, <u>Lahey</u> discloses "spawning a thread to perform database recovery ...

associated with that thread; and during recovery, ... by performing substeps of:

attempting to spawn additional threads to perform database recovery and ... associated

with each additional thread spawned and if the performance measured ... degrades

beyond a desired amount" (spawn threads, column 6, lines 18-34; note: 'if' denotes an

optionally recited limitation and optionally recited limitations are not guaranteed to take place and are therefore not required to be taught, see MPEP § 2106 Section II(C)).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet and Lahey because using the steps of "spawning a thread to perform database recovery ... associated with that thread; and during recovery, ... by performing substeps of: attempting to spawn additional threads to perform database recovery and ... associated with each additional thread spawned and if the performance measured ... degrades beyond a desired amount" would have given those skilled in the art the tools to improve the invention by managing the workflow in a computing system. This gives the user the advantage of having more efficient use of limited resources.

Lomet does not explicitly indicate "and recording statistics about performance".

However, Klotz discloses "and recording statistics about performance" (performance statistics, paragraph [0047]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, and Klotz because using the steps of "and recording statistics about performance" would have given those skilled in the art the tools to improve the invention by determine when heavy data loads are placing I/O stress on the system. This gives the user the advantage of being able to take measures to avoid stresses on the system.

Neither Lomet, Lahey, nor Klotz disclose "auto-tuning method ... dynamically adjusts how many recovery threads are spawned", "dynamically adjusting how many threads are spawned".

However, Schmidt discloses "auto-tuning method ... dynamically adjusts how many recovery threads are spawned", "dynamically adjusting how many threads are spawned" (dynamically spawn threads, Section 2.1.2, "MiniCOOL" bullet-point).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, Klotz, and Schmidt because using the steps of "auto-tuning method ... dynamically adjusts how many recovery threads are spawned", "dynamically dynamically adjusting how many threads are spawned" would have given those skilled in the art the tools to improve the invention by being able to support applications with stringent real-time requirements. This gives the user the advantage of being able to have better response time.

Neither Lomet, Lahey, Klotz, nor Schmidt explicitly indicate "for a just-spawned thread ... freezing execution of the just-spawned thread and ceasing any attempt to spawn additional threads for database recovery".

However, Klemm discloses "for a just-spawned thread ... freezing execution of the just-spawned thread and ceasing any attempt to spawn additional threads for database recovery" (suspend newly spawned thread, column 4, lines 20-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lomet, Lahey, Klotz, Schmidt, and Klemm because using the steps of "for a just-spawned thread ... freezing execution of the just-spawned

thread and ceasing any attempt to spawn additional threads for database recovery"

would have given those skilled in the art the tools to improve the invention by allowing

the workflow to be monitored and tuned. This gives the user the advantage of being

able to have better response time.

As per claims 28-38

These claims are rejected on grounds corresponding to the arguments given

above for rejected claims 2-12 are similarly rejected.

As per claim 39, <u>Lomet</u> teaches

A computer-readable medium having processor-executable instructions for

performing the method of claim 27. (column 9, lines 32-43)

As per claim 40, <u>Lomet</u> teaches

downloading a set of processor-executable instructions for performing the

method of claim 27. (column 9, lines 32-43)

Response to Arguments

5.   Applicant's arguments with respect to claims 1-7,8-21,23-40 have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

6.   The prior art made of record, listed on form PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jay A. Morrison whose telephone number is (571) 272-7112. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo can be reached on (571) 272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Jay Morrison   Tim Vo
TC2100   TC2100